108TH CONGRESS
1ST SESSION

H. R. 386

To amend the Internal Revenue Code of 1986 to provide for the issuance
of tax-exempt bonds by Indian tribal governments, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 2003

Mr. SHADEGG introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide
for the issuance of tax-exempt bonds by Indian tribal
governments, and for other purposes.

1   *Be it enacted by the Senate and House of Representa-*

2 *tives of the United States of America in Congress assembled,*

3   **SECTION 1. SHORT TITLE.**

4   This Act may be cited as the "Tribal Government

5 Tax-Exempt Bond Authority Amendments Act of 2003".

6   **SEC. 2. CONSTITUTIONAL AUTHORITY.**

7   The Constitutional authority upon which this Act

8 rests is the power of Congress to lay and collect taxes and

9 to regulate commerce with foreign nations and among the

1 several States and with the Indian tribes, as set forth in

2 section 8 of article I of the United States Constitution.

SEC. 3. MODIFICATIONS OF AUTHORITY OF INDIAN TRIBAL

GOVERNMENTS TO ISSUE TAX-EXEMPT

BONDS.

6 (a) GENERAL PROVISION.—Subsection (c) of section

7 7871 of the Internal Revenue Code of 1986 (relating to

8 Indian tribal governments treated as States for certain

9 purposes) is amended to read as follows:

10 ''(c) ADDITIONAL REQUIREMENTS FOR TAX-EXEMPT

11 BONDS.—

12 ''(1) IN GENERAL.—Subsection (a) of section

13 103 shall apply to any obligation issued by an In-

14 dian tribal government (or subdivision thereof) only

15 if such obligation is part of an issue 95 percent or

16 more of the net proceeds of which are to be used to

17 finance facilities located on land within or in close

18 proximity to the exterior boundaries of an Indian

19 reservation.

20 ''(2) PRIVATE ACTIVITY BONDS.—Any private

21 activity bond (as defined in section 141(a)) issued by

22 an Indian tribal government (or subdivision thereof)

23 shall be treated as a qualified bond for purposes of

24 section 103(b)(1) to which section 146 does not

25 apply if—

1   "(A) GENERAL RESTRICTIONS.—The re-

2   quirements of section 144(a)(8)(B) and section

3   147 are met with respect to the issue.

4   "(B) SPECIFIC RESTRICTIONS.—

5   "(i) OWNERSHIP.—In the case of an

6   issue the net proceeds of which exceed

7          $500,000, 50 percent or more of the prof-

8   its or capital interests in the facilities to be

9   financed thereby (or in the entity owning

10   the facilities) are owned either by an In-

11   dian tribe, a subdivision thereof, a corpora-

12   tion chartered under section 17 of the In-

13   dian Reorganization Act of 1934 (25

14   U.S.C. 477) or section 3 of the Oklahoma

15   Welfare Act (25 U.S.C. 503), individual

16   enrolled members of an Indian Tribe, an

17   entity wholly-owned by any of the fore-

18   going, or any combination thereof.

19   "(ii) EMPLOYMENT TEST.—It is rea-

20   sonably expected (at the time of issuance

21   of the obligations) that for each $100,000

22   of net proceeds of the issue at least 1 em-

23   ployee rendering services at the financed

24   facilities is an enrolled member of an In-

1 dian tribe or the spouse of an enrolled

2 member of an Indian tribe.

3 "(iii) GAMING.—No part of the issue

4 of which such bond is a part is used for

5 property (or any portion thereof) placed in

6 service for purposes of conducting or hous-

7 ing class I, II, or III gaming (as defined

8 in section 4 of the Indian Gaming Regu-

9 latory Act (25 U.S.C. 2703)).

10 "(3) DEFINITIONS.—For purposes of this sub-

11 section—

12 "(A) INDIAN TRIBE.—The term 'Indian

13 tribe' means any Indian tribe, band, nation,

14 pueblo, or other organized group or community,

15 including any Alaska Native village, or regional

16 or village corporation, as defined in, or estab-

17 lished pursuant to, the Alaska Native Claims

18 Settlement Act (43 U.S.C. 1601 et seq.), which

19 is recognized as eligible for the special pro-

20 grams and services provided by the United

21 States to Indians because of their status as In-

22 dians.

23 "(B) INDIAN RESERVATION.—The term

24 'Indian reservation' means a reservation, as de-

25 fined in—

1 "(i) section 3(d) of the Indian Financ-
2 ing Act of 1974 (25 U.S.C. 1452(d)); or

3 "(ii) section 4(10) of the Indian Child
4 Welfare Act of 1978 (25 U.S.C.
5 1903(10)).

6 "(C) IN CLOSE PROXIMITY TO.—The term
7 'in close proximity to' means—

8 "(i) in the case of an Indian reserva-
9 tion, or portion thereof, located within a
10 metropolitan statistical area (within the
11 meaning of section 143(k)(2)(B)), within 1
12 mile of the boundaries of such reservation,
13 or portion thereof; and

14 "(ii) in the case of an Indian reserva-
15 tion, or portion thereof, located within a
16 nonmetropolitan area (as defined in section
17 42(d)(5)(C)(iv)(IV)), within 15 miles of
18 the boundaries of such reservation, or por-
19 tion thereof.

20 "(D) NET PROCEEDS.—The term 'net pro-
21 ceeds' has the meaning given such term by sec-
22 tion 150(a)(3)."

23 (b) CONFORMING AMENDMENT.—Paragraph (3) of
24 section 149(b) of the Internal Revenue Code of 1986 (re-
25 lating to federally guaranteed bond is not exempt) is

1 amended by redesignating subparagraph (D) as subpara-

2 graph (E) and by inserting after subparagraph (C) the

3 following new subparagraph:

4   ''(D) EXCEPTION FOR BONDS ISSUED BY

5   INDIAN TRIBAL GOVERNMENTS.—Paragraph (1)

6   shall not apply to any bond issued by an Indian

7   tribal government (or subdivision thereof) un-

8   less such bond is federally guaranteed within

9   the meaning of paragraph (2)(B)(ii).''

10 **SEC. 4. EXEMPTION FROM REGISTRATION REQUIREMENTS.**

11 The first sentence of section 3(a)(2) of the Securities

12 Act of 1933 (15 U.S.C. 77c(a)(2)) is amended by inserting

13 ''or by any Indian tribal government or subdivision thereof

14 (within the meaning of section 7871 of the Internal Rev-

15 enue Code of 1986),'' after ''or Territories,''.

16 **SEC. 5. EFFECTIVE DATE.**

17 The amendments made by this Act shall apply to obli-

18 gations issued after the date of the enactment of this Act.

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